

107TH CONGRESS  
1ST SESSION

# H. R. 2308

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to allow investments by certain retirement plans in principal residences of children and grandchildren of participants who are first-time homebuyers.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2001

Mr. WATKINS of Oklahoma (for himself and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to allow investments by certain retirement plans in principal residences of children and grandchildren of participants who are first-time homebuyers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “First-time Homebuyer  
5       Down Payment Assistance Act”.

1 **SEC. 2. EQUITY INVESTMENTS IN PRINCIPAL RESIDENCES**  
2 **FOR FIRST-TIME HOMEBUYERS BY CERTAIN**  
3 **RETIREMENT PLANS.**

4 (a) EXEMPTION OF INVESTMENT FROM PROHIBITED  
5 TRANSACTION RULES.—Section 4975 of the Internal Rev-  
6 enue Code of 1986 (relating to tax on prohibited trans-  
7 actions) is amended by redesignating subsections (h) and  
8 (i) as subsections (i) and (j), respectively, and by inserting  
9 after subsection (g) the following new subsection:

10 “(h) SPECIAL RULE FOR HOME EQUITY PARTICIPA-  
11 TION ARRANGEMENTS.—

12 “(1) IN GENERAL.—The prohibitions provided  
13 in subsection (c) shall not apply to any qualified  
14 home equity participation arrangement to the extent  
15 that the amount paid to acquire the ownership inter-  
16 est referred to paragraph (2)(A) does not exceed  
17 \$10,000.

18 “(2) QUALIFIED HOME EQUITY PARTICIPATION  
19 ARRANGEMENT.—For purposes of this subsection—

20 “(A) IN GENERAL.—The term ‘qualified  
21 home equity participation arrangement’ means  
22 an arrangement—

23 “(i) under which the trustee of a  
24 qualified plan, at the direction of the eligi-  
25 ble participant, shall acquire an ownership  
26 interest in any dwelling unit which within

1 a reasonable period of time (determined at  
2 the time the arrangement is executed) is to  
3 be used as the principal residence for a  
4 first-time homebuyer, and

5 “(ii) which meets the requirements of  
6 subparagraph (B).

7 “(B) OWNERSHIP INTEREST REQUIRE-  
8 MENT.—An arrangement shall meet the re-  
9 quirements of this subparagraph if the owner-  
10 ship interest described in subparagraph (A)—

11 “(i) is a fee interest in such property  
12 (and, in the case of an arrangement which  
13 is not otherwise at arm’s length, the trust-  
14 ee’s fee interest would be reasonable in an  
15 arm’s length arrangement),

16 “(ii) by its terms requires repayment  
17 in full upon the sale or other transfer of  
18 the dwelling unit, and

19 “(iii) may not be used as security for  
20 any loan secured by any interest in the  
21 dwelling unit.

22 “(3) DEFINITIONS.—For purposes of this  
23 subsection—

1           “(A) ELIGIBLE PARTICIPANT.—The term  
2           ‘eligible participant’ means an individual on  
3           whose behalf a qualified plan is established.

4           “(B) QUALIFIED PLAN.—The term ‘quali-  
5           fied plan’ means an individual retirement plan  
6           or qualified cash or deferred arrangement de-  
7           scribed in section 401(k).

8           “(C) FIRST-TIME HOMEBUYER.—The term  
9           ‘first-time homebuyer’ means an individual  
10          who—

11                   “(i) is an eligible participant or quali-  
12                   fied family member, and

13                   “(ii) had (and if married, such indi-  
14                   vidual’s spouse had) no present ownership  
15                   interest in a principal residence at any  
16                   time during the 2-year period before the  
17                   date of the arrangement.

18          “(D) QUALIFIED FAMILY MEMBER.—The  
19          term ‘qualified family member’ means a child  
20          (as defined in section 151(c)(3)) or grandchild  
21          of the eligible participant (or such participant’s  
22          spouse). Section 152(b)(2) shall apply in deter-  
23          mining if an individual is a child or grandchild  
24          of an eligible participant (or such participant’s  
25          spouse).

1 “(E) ACQUISITION; ETC.—

2 “(i) ACQUISITION.—The term ‘acqui-  
3 sition’ includes construction, reconstruc-  
4 tion, and improvement related to such ac-  
5 quisition.

6 “(ii) ACQUISITION COST.—The term  
7 ‘acquisition cost’ has the meaning given  
8 such term by section 143(k)(3).

9 “(F) PRINCIPAL RESIDENCE.—The term  
10 ‘principal residence’ has the same meaning as  
11 when used in section 121.”.

12 (b) INVESTMENT NOT A LOAN UNDER DISTRIBU-  
13 TION RULES.—Section 72(p) of such Code (relating to  
14 loans treated as distributions) is amended by adding at  
15 the end the following new paragraph:

16 “(6) SPECIAL RULE FOR HOME EQUITY PAR-  
17 TICIPATION ARRANGEMENTS.—Paragraph (1) shall  
18 not apply to a qualified home equity participation  
19 arrangement to which section 4975(h)(1) applies.”.

20 (c) CONFORMING AMENDMENT.—Section 408(b) of  
21 the Employee Retirement Income Security Act of 1974  
22 (29 U.S.C. 1108(b)) is amended by adding at the end the  
23 following new paragraph:

24 “(14) Any qualified home equity participation  
25 arrangement to which section 4975(h) of the Inter-

1       nal Revenue Code of 1986 applies to the extent that  
2       the requirements of paragraph (1) thereof are met.”.

3       (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to arrangements entered into after  
5 the date of the enactment of this Act.

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